

## REMARKS

### Support for Claim Amendments

Claims 17 and 18 have been rewritten in independent form. Support for these amendments may be found in Claims 1 and 17 as filed.

### Claim Objections

Claims 17 and 18 were objected to as being dependent upon a rejected base claim but allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claim. (6/25/03 Office Action, page 5, third paragraph.)

Claims 17 and 18 have been rewritten in independent form including all of the limitations of the base claim and any intervening claim. Accordingly, Applicants request the withdrawal of the objection and the allowance of Claims 17 and 18.

### Claim Rejections Under 35 U.S.C. § 103(a)

Claims 1-11, 13-16, and 19-36 stand rejected under 35 U.S.C. § 103(a), as allegedly unpatentable over JP 06-57008 to Yoshio et al. (hereinafter “Yoshio”). Applicants respectfully traverse this rejection.

Yoshio generally describes a method of producing a resin composition, where the composition comprises (A) 40-94 parts by weight of a polyphenylene ether resin, (B) 2-20 parts by weight of a polyolefin resin having a number average molecular weight of at least 30,000 (preferably ethylene-propylene copolymer or low density polyethylene), and (C) 4-40 parts by weight of a vinylic aromatic compound-conjugated dienic compound copolymer (preferably styrene-butadiene copolymer) and/or the hydrogenation product of the copolymer. Components (A) and (B) are melt-kneaded with each other and subsequently further melt-kneaded with component (C) to produce the composition. (Patent Abstract of Japan record for Yoshio.) All of Yoshio’s examples and comparative examples appear to use either a combination of two unhydrogenated block styrene-butadiene copolymers or a single hydrogenated block styrene-butadiene copolymer. (Machine translation of Yoshio, paragraphs [0027] to [0040].)

The Examiner has stated that

applicants' specification discloses pairs of examples and comparative Examples in which either a hydrogenated or non-hydrogenated block copolymer are present in comparison with Examples in which a combination of non-hydrogenated and hydrogenated block copolymer is present. However the comparative Examples in such cases have less total block copolymer than the Examples. In such cases it can hardly be said that it would be unexpected that improved impact strength would result since more block copolymer (containing rubbery domains) is present. Proper comparative data would require proof that the same amount of total block copolymer is superior to either the composition containing only unhydrogenated block copolymer or a composition containing only hydrogenated block copolymer.

(6/25/2003 Office Action, page 3, first full paragraph)

Applicants are submitting herewith a declaration with one example and two comparative examples having the same total block copolymer content. These data collectively show that Applicants' inventive compositions having both hydrogenated and unhydrogenated block copolymers unexpectedly exhibit superior low temperature impact strength compared to compositions containing either hydrogenated block copolymer or unhydrogenated block copolymer alone. Specifically, an example composition containing 4.99 weight percent each of a hydrogenated styrene-butadiene-styrene triblock copolymer and an unhydrogenated styrene-butadiene-styrene triblock copolymer exhibited an Unnotched Izod impact strength value at -30°C of 11.98 foot-pounds/inch, which is 85.2% greater than the value of 6.47 foot-pounds/inch exhibited by a first comparative example composition with 9.98 weight percent of the hydrogenated block copolymer alone, and 148% greater than the value of 4.84 foot-pounds/inch exhibited by the a second comparative example composition with 9.98 weight percent of the unhydrogenated block copolymer alone. These unexpected and synergistic results are sufficient to overcome any alleged *prima facie* case based on Yoshio. Applicants' Claims 1-11, 13-16, and 19-36 are therefore patentable over Yoshio, and reconsideration and withdrawal of the rejection of these claims under 35 U.S.C. §103(a) is respectfully requested.

Claims 1-11, 13-16, and 19-36 stand rejected under 35 U.S.C. § 103(a), as allegedly unpatentable over U.S. Patent No. 6,509,412 to Hall (hereinafter “Hall”). Applicants respectfully traverse this rejection.

Hall was issued January 21, 2003 on an application filed September 29, 2000. The present application was filed November 1, 2001, claiming priority to a provisional application filed December 28, 2000. Hall is therefore available as prior art only under 35 U.S.C. §102(e). Applicants are submitting herewith a declaration and accompanying documentary evidence showing that they were in possession of their invention before the September 29, 2000 filing date of Hall. Accordingly, Hall is not available as prior art under 35 U.S.C. §102(e), and it cannot serve as the basis for a 35 U.S.C. §103(a) rejection. Applicants therefore request the reconsideration and withdrawal of the rejection of Claims 1-11, 13-16, and 19-36 under 35 U.S.C. § 103(a).

It is believed that the foregoing amendments and remarks fully comply with the Office Action and that the claims herein should now be allowable to Applicants. Accordingly, reconsideration and allowance is requested.

If there are any additional charges with respect to this Amendment or otherwise, please charge them to Deposit Account No. 07-0862 maintained by Assignee.

Respectfully submitted,

CANTOR COLBURN LLP  
Applicants' Attorneys

By:   
J. Michael Buchanan  
Registration No. 44,571

Date: August 25, 2003  
Customer No.: 23413  
Telephone: (860) 286-2929